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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-150

Filed: 15 August 2017

Forsyth County, No. 14 CRS 59028

STATE OF NORTH CAROLINA

v.

MARQUIS DAVID PETERSON

Appeal by defendant from judgment entered 7 June 2016 by Judge Anderson D. Cromer in Forsyth County Superior Court. Heard in the Court of Appeals 31 July 2017.

Attorney General Joshua H. Stein, by Assistant Attorney General LaShawn S. Piquant, for the State.

Sean P. Vitrano, for defendant-appellant.

CALABRIA, Judge.

Marquis David Peterson (“defendant”) appeals from a judgment entered upon a jury verdict finding him guilty of robbery with a dangerous weapon. After careful review, we conclude that defendant received a fair trial, free from error.

I. Background

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On 28 August 2014, defendant and his friend, Savion Robinson (“Robinson”), called Mario Pehaire (“Pehaire”) and offered to sell two cell phones to him. Pehaire had purchased phones from the men on two prior occasions, and he accepted their offer. After withdrawing \$650.00 from the bank, Pehaire notified the men that he would meet them in the parking lot of the Walmart off of University Parkway in Winston-Salem, North Carolina.

At the agreed upon time, Pehaire drove to the Walmart and parked his vehicle. Defendant and Robinson arrived together shortly after Pehaire. They parked in a space nearby, exited their car, and approached Pehaire’s vehicle. Robinson was carrying a red and white Verizon shopping bag. He opened the door and sat down in the passenger-side front seat of Pehaire’s car, while defendant remained outside holding the door open. Robinson reached into the Verizon bag, pulled out a black handgun, and pointed it at Pehaire’s knee. Robinson commanded Pehaire to give him the money, and Pehaire said that it was in the glove compartment. Robinson took \$650.00 in cash from the glove compartment, plus an additional \$18.00-\$20.00 in coins and bills that he found inside of the center console. Defendant then reached over Robinson, grabbed Pehaire’s cell phone off of his lap, pulled the keys from the vehicle’s ignition, and backed away so that Robinson could exit the vehicle. The men got into their car and quickly drove away. Pehaire went inside of the Walmart and called 911.

Police arrived and processed Pehaire's vehicle for latent fingerprints. A left palm print collected from the exterior passenger-side rear door matched a known sample of defendant's prints, while two fingerprints found on the exterior passenger-side front door matched a known sample of Robinson's prints. After reviewing a photographic lineup, Pehaire identified defendant as one of the men who robbed him.

On 8 September 2014, officers with the Winston-Salem Police Department sought to arrest defendant on outstanding warrants for robbery with a dangerous weapon and conspiracy to commit robbery. The officers located defendant and Robinson in a vehicle at an apartment complex, stopped the car, and placed defendant under arrest. Defendant had a small black handgun in his pocket. A Verizon bag was also found inside of the vehicle.

On 15 December 2014, a grand jury returned an indictment charging defendant with robbery with a dangerous weapon, pursuant to N.C. Gen. Stat. § 14-87 (2015). A jury trial commenced in Forsyth County Criminal Superior Court on 6 June 2016. On 7 June 2016, the jury found defendant guilty of the charged offense.

The trial court gave defendant an opportunity to speak at sentencing. The court found one mitigating factor and sentenced defendant, as a prior record level I, to 48-70 months in the custody of the North Carolina Division of Adult Correction. Defendant timely appealed.

II. *Anders* Review

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Counsel appointed to represent defendant is unable to identify any issue with sufficient merit to support a meaningful argument for relief on appeal and asks that this Court conduct its own review of the record for possible prejudicial error. Counsel shows to the satisfaction of this Court that he has complied with the requirements of *Anders v. California*, 386 U.S. 738, 18 L. Ed. 2d 493 (1967), and *State v. Kinch*, 314 N.C. 99, 331 S.E.2d 665 (1985), by advising defendant of his right to file written arguments with this Court and providing him with the materials necessary for him to do so. Defendant has not filed any written arguments on his own behalf with this Court, and a reasonable time for him to do so has expired.

In accordance with *Anders*, we have fully examined the record, including the points that defendant's counsel raised in his brief, to determine whether any issues of arguable merit appear. We are unable to find any possible prejudicial error and conclude that the appeal is wholly frivolous.

NO ERROR.

Judges TYSON and MURPHY concur.

Report per Rule 30(e).